

JAMES ANTHONY BARNETT, JR.,

Plaintiff,

vs.

JEFFREY DEAN PATANE, et al.,

Defendants.

Fed. R. Civ. P. 15(a)(2). The Fourth Circuit “ha[s] interpreted Rule 15(a) to provide that ‘leave to amend a pleading should be denied only when the amendment would be prejudicial to the opposing party, there has been bad faith on the part of the moving party, or the amendment would have been futile.’” Laber v. Harvey, 438 F.3d 404, 426 (4th Cir. 2006) (en banc) (quoting Johnson v. Oroweat Foods Co., 785 F.2d 503, 509 (4th Cir. 1986)).

Plaintiff has already filed an Amended Complaint that passed initial review. He now seeks to file a Second Amended Complaint but he fails to attach a proposed Second Amended Complaint to his Motion. His Motion will therefore be denied without prejudice to file a Motion to Amend and a proposed Second Amended Complaint within **14 days** of the date of this Order. Although Plaintiff is appearing *pro se*, he is required to comply with all applicable timeliness and procedural requirements, including the Local Rules of the United States District Court for the Western District of North Carolina and the Federal Rules of Civil Procedure. See, e.g., Mayle v. Felix, 545 U.S. 644, 664 (2005) (discussing relation back). Rule 8(a) of the Federal Rules of Civil Procedure requires pleadings to contain a “short and plain statement of the claim showing that the pleader is entitled to relief...” Fed. R. Civ. P. 8(a)(2). The proposed Second Amended Complaint must be on a § 1983 form, which the Court will provide, and it must refer to the instant case number so that it is docketed in the correct case. The proposed Second Amended Complaint must contain all claims Plaintiff intends to bring in this action, identify all defendants he intends to sue, and clearly set forth the factual allegations against each of them. Plaintiff may not amend his Complaint by merely adding defendants and claims in a piecemeal fashion. The Second Amended Complaint will supersede the Complaint and Amended Complaint it so that any claims or parties omitted from the Second Amended Complaint will be waived. See Young v. City of Mt. Ranier, 238 F.3d 567 (4th Cir. 2001). If Plaintiff fails to comply with this Order, the Court will proceed on the Amended


Complaint that has already passed initial review.

IT IS THEREFORE ORDERED that:

(1) Plaintiff's Motion to Receive Legal Documents, (Doc. No. 18), is **DENIED**.

(2) Plaintiff's Motion for Leave to Amend, (Doc. No. 19), is **DENIED** without prejudice to file a Motion to Amend and proposed Second Amended Complaint within **14 days** of this Order. If Plaintiff fails to comply with this Order, the case will proceed on the Amended Complaint, (Doc. No. 12).

Signed: August 7, 2019


Frank D. Whitney
Chief United States District Judge 